

FAEGRE & BENSON LLP

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DENVER, COLORADO 80203-4532
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OFFICE OF PETITIONS

FROM: Chad S. Hilyard, Esq.

TELEPHONE: 303-607-3696

DATE: January 11, 2005

TIME: 2:28 p.m.
(Denver)

NUMBER OF PAGES (including this page): 16

F&B FILE: 56578-308392

TO: Commission for Patents

TELEPHONE:
FAX: (703) 872-9306

MESSAGE

00 FC:

01/13/2005 DALLIN 00000132 09625226

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE 2579.00 OP

In re Application of Paul Wensley et al.

Examiner: Kanji Patel

Art Unit: 2625

Serial No.: 09/625,226

Confirmation No.: 6292

Filed: July 24, 2000

Atty. Docket No.: 56578-308392

For: METHOD AND SYSTEM USING NON-UNIFORM IMAGE BLOCKS FOR RAPID
INTERACTIVE VIEWING OF DIGITAL IMAGES OVER A NETWORK

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I HEREBY CERTIFY THAT THE ATTACHED DOCUMENTS ARE BEING FACSIMILE TRANSMITTED TO THE UNITED STATES PATENT AND
TRADEMARK OFFICE VIA FACSIMILE NO. (703) 872-9306

1. TRANSMITTAL FORM;
2. FREE TRANSMITTAL FY 2005
3. PROCESSING FEE TRANSMITTAL;
4. CREDIT CARD FORM;
5. PETITION REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY;

6. REQUEST TO CORRECT ERRORS IN SMALL ENTITY FEES PAID;
7. ADDITIONAL STATEMENTS TO SUPPORT PETITION;
8. RESPONSE TO OA MAILED 7/29/2003.

Alicia R. Espinoza
Alicia R. Espinoza

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ALICIA R. ESPINOZA AT 303.607.3728.

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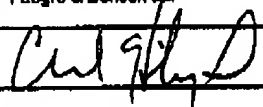
Colorado Minnesota Iowa London Frankfurt Shanghai

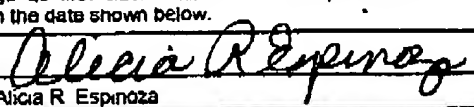
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/625,226
	Filing Date	July 24, 2000
	First Named Inventor	Paul Wensley et al.
	Art Unit	2625
	Examiner Name	6292
Total Number of Pages in This Submission	Attorney Docket Number	56578-308392

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ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Additional Statements Establishing Unintentional Delay in Support of Petition for Revival Under 37 CFR 1.137(b) Request to Correct Errors in Small Entity Fees Paid Under 37 CFR 1.28(c)
Remarks <div style="text-align: right;"> RECEIVED JAN 14 2005 OFFICE OF PETITIONS </div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm	Faegre & Benson LLP		
Signature			
Printed Name	Chad S. Hilyard		
Date	January 11, 2005	Reg. No.	40,647

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Signature			
Typed or printed name	Alicia R. Espinoza	Date	January 11, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

PTO/SB/17(11-04)

Approved for use through 07/31/2007. OMB 0651-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PROCESSING FEE**Under 37 CFR 1.17(i)
TRANSMITTAL**
(Fees are subject to annual revision)Send completed form to: Commissioner for Patents
P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	09/625,226
Filing Date	07/24/2000
First Named Inventor	Paul Wensley et al
Art Unit	2625
Examiner Name	Karji Patel
Attorney Docket Number	56578-308392

Enclosed is a paper filed under 37 CFR 1.28(c)(3) that requires a processing fee (37 CFR 1.17(i)).
Payment of \$ 1,079.00 is enclosed.

This form should be included with the above-mentioned paper and faxed or mailed to the Office using the appropriate Mail Stop, if applicable. For transmittal of petition fees under 37 CFR 1.17(f), (g) or (h), see form PTO/SB/17p.

Payment of Fees (small entity amounts are NOT available for the petition fees)

- ☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 06-0029
☐ processing fee under 37 CFR 1.17(i) ☒ any deficiency of fees and credit of any overpayments

Enclose a duplicative copy of this form for fee processing.

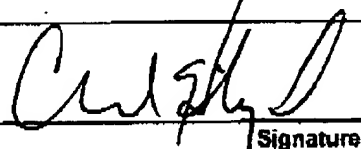
- ☐ Check in the amount of \$ _____ is enclosed

- ☒ Payment by credit card (Form PTO-2038 or equivalent enclosed) Do not provide credit card information on this form.

**Processing Fees under 37 CFR 1.17(i): Fee \$130 Fee Code 1808 for all,
Except for § 1.221 papers (Fee Code 1803)**

For papers filed under:

- § 1.28(c)(3) - for processing a non-itemized fee deficiency based on an error in small entity status.
- § 1.41 - for supplying the name or names of the inventor or inventors after the filing date without an oath or declaration as prescribed by § 1.63, except in provisional applications.
- § 1.48 - for correcting inventorship, except in provisional applications
- § 1.52(d) - for processing a nonprovisional application filed with a specification in a language other than English.
- § 1.53(b)(3) - to convert a provisional application filed under § 1.53(c) into a nonprovisional application under § 1.53(b)
- § 1.55 - for entry of late priority papers.
- § 1.99(a) - for processing a belated submission under § 1.99.
- § 1.103(b) - for requesting limited suspension of action, continued prosecution application (§ 1.53(d)).
- § 1.103(c) - for requesting limited suspension of action, request for continued examination (§ 1.114).
- § 1.103(d) - for requesting deferred examination of an application
- § 1.217 - for processing a redacted copy of a paper submitted in the file of an application in which a redacted copy was submitted for the patent application publication.
- § 1.221 - for requesting voluntary publication or republication of an application. **Fee Code 1803**
- § 1.281(c)(5) - for processing a second or subsequent protest by the same real party in interest.
- § 1.407(d) - for filing an oath or declaration pursuant to 35 U.S.C. 371 (c)(4) naming an inventive entity different from the inventive entity set forth in the international stage.
- § 3.81 - for a patent to issue to assignee, assignment submitted after payment of the issue fee


Signature

Chad S. Hilyard

Typed or printed name

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January 11, 2005

Date

40,647

OFFICE OF PETITIONS Registration No., if applicable

This collection of information is required by 37 CFR 1.17. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-

If you need assistance in completing the form, call 1-800-PTO-9199 and select

13

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Wensley, et al. Serial No.: 09/625,226 Filed: July 24, 2000 For: METHOD AND SYSTEM USING NON-UNIFORM IMAGE BLOCKS FOR RAPID INTERACTIVE VIEWING OF DIGITAL IMAGES OVER A NETWORK	Examiner: Patel Group Art Unit: 2625 Conf. No.: 6292 Docket No.: 56578/308392	RECEIVED CENTRAL FAX CENTER JAN 11 2005
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Commissioner for Patents
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I CERTIFY THAT THIS PAPER IS BEING TRANSMITTED BY FACSIMILE TO
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Alicia R. Espinoza
Alicia R. Espinoza

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OFFICE OF PETITIONS

Request to Correct Errors in Small Entity Fees Paid Under 37 C.F.R. § 1.28(c)

Sir:

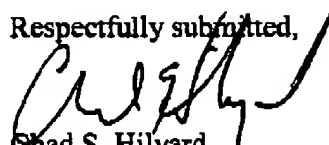
During the prosecution of this patent application, the Applicant unintentionally paid small entity fees. Applicant is not entitled to pay small entity fees, and therefore, Applicant is filing this request to correct the fee payment errors. Below is the itemization of the deficiency payments.

Fee Type	Payment Date	Amount Paid	Amount Due	Deficiency Owed
Filing Fee	11/08/2000	\$355	\$1,000	\$645
Excess Dependent Claims (9 Extra)	11/08/2000	\$81	\$450	\$369
Missing Parts Surcharge	11/08/2000	\$65	\$130	\$65
Total Amount Due				\$1,079

Serial No.: 09/625,226
Atty Docket No.: 56578-308392

Applicant respectfully requests the Commissioner to accept this deficiency payment. A credit card payment is attached in the amount of \$581.

Respectfully submitted,



Chad S. Hilyard
Reg. No. 40,647

FAEGRE & BENSON LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901
Tel: 303-607-3500
CSH:csb

DNVR1:60284298.01

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
 UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
 56578-308392

First named inventor: Paul Wensley

Application No.: 09/625226

Art Unit: 2625

Filed: 07/24/2000

Examiner: Kanji Patel

Title: Method and System Using Non-Uniform Image Blocks for Rapid Interactive Viewing of Digital Images Over a Network

Attention: Office of Petitions
 Mail Stop Petition
 Commissioner for Patents
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 FAX: (703) 872-9306

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OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact
 Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee — required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity - fee \$_____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$1,500 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in
 the form of Response to Restriction Requirement (identify type of reply):

- ☐ has been filed previously on _____.
- ☒ is enclosed herewith.

B. The issue fee of \$

- ☐ has been paid previously on _____.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

PTO/SB/64 (09-04)

Approved for use 07/31/2005 OMB 0531-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity or \$_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63)

4. STATEMENT. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (II)(C) and (D))]

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Signature

Chad S. Milyard
Typed or printed name

Faegre & Benson LLP
2200 Wells Fargo Center
90 South 7th Street
Minneapolis, MN 55402

Address

January 11, 2005

Date

40,647

Registration Number, if applicable

303-607-3500

Telephone Number

Enclosures: ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☐ Other :

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(A)]

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

January 11, 2005

Date

Signature

Alicia R. Espinoza

Typed or printed name of person signing certificate

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Effective on 12/02/2004

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4878).

FEE TRANSMITTAL for FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 2,579.00

Application Number	09/625,228
Filing Date	July 29, 2000
First Named Inventor	Paul Wensley et al.
Examiner Name	Kanji Patel
Art Unit	2625
Attorney Docket No.	66578-308392

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METHOD OF PAYMENT (check all that apply)

☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):

☒ Deposit Account Deposit Account Number: 06-0029

Deposit Account Name: Faegre & Benson LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below

☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s)

☒ Credit any overpayments

Under 37 CFR 1.16 and 1.17

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FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	150	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES**Fee Description**

Each claim over 20 (including Reissues)

Each independent claim over 30 (including Reissues)

Multiple dependent claims

Total Claims **Extra Claims** **Fee (\$)** **Fees Paid (\$)**

-20 or HP = X =

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims **Extra Claims** **Fee (\$)** **Fees Paid (\$)**

-3 or HP = X =

HP = highest number of independent claims paid for, if greater than 3

Small Entity	
Fee (\$)	Fee (\$)
50	25
200	100
360	180
Multiple Dependent Claims	
Fee (\$)	Fee Paid

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

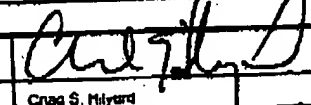
Total Sheets **Extra Sheets** **Number of each additional 50 or fraction thereof** **Fee (\$)** **Fees Paid (\$)**

- 100 = / 50 = (round up to a whole number) X

4. OTHER FEES(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Petition for Revival of an Application for Patent Abandoned Unintentionally \$1,500.00

SUBMITTED BY		Registration No.	40,647	Telephone	303-607-3500
Signature		(Attorney/Agent)		Date	1/11/2005
Name (Print/Type)	Chad S. Myland				

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a patent by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Wensley et al.	Examiner: Kanji Patel	RECEIVED CENTRAL FAX CENTER JAN 11 2005 RECEIVED JAN 14 2005 OFFICE OF PETITIONS
Serial No.: 09/625,226	Group Art Unit: 2625	
Filed: July 24, 2000	Conf. No.: 6292	
For: METHOD AND SYSTEM USING NON-UNIFORM IMAGE BLOCKS FOR RAPID INTERACTIVE VIEWING OF DIGITAL IMAGES OVER A NETWORK	Docket No. 56578-308392	

Attention: Office of Petitions
Mail Stop Petition
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

I CERTIFY THAT THIS PAPER IS BEING TRANSMITTED BY FACSIMILE
 TO THE COMMISSIONER FOR PATENTS, UNITED STATES PATENT
 AND TRADEMARK OFFICE AT (703) 872-9306 ON JANUARY 11,
 2005.

Alicia R. Espinoza
 Alicia R. Espinoza

**ADDITIONAL STATEMENTS ESTABLISHING UNINTENTIONAL DELAY IN
 SUPPORT OF PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)**

Sir:

On or about late August 2004, my law firm, Faegre & Benson, took over responsibilities for Quark's patent matters from the law firm of Webb, Lewis and Meyers, including the above identified patent application. Shortly after taking over Quark's patent files, we noticed that the above identified patent application became abandoned because the responsible attorney for the matter, Glenn Webb, failed to file a response to a restriction requirement dated July 29, 2003. Even though the patent application had already gone abandoned, Mr. Webb apparently tried to remedy the situation by filing a response to the restriction requirement on August 15, 2004. Mr. Webb, however, did not file a petition to revive the abandoned application at that time, and thus, the patent application still is abandoned.

I have discussed this matter with the General Counsel of the assignee of this patent application, Ms. Susan Brushaber, and she has informed me that it was NOT Quark's intention to let this patent application go abandoned. Quark's intention was, and still is, to prosecute this patent application into one or more issued patents..

Adjustment dates: 03/14/2005 AKELLEY
 01/13/2005 DALLIN 00000132 09625226
 01 FC:1461 -2579.00 OP
 03/14/2005 AKELLEY 00000013 09625226
 01 FC:1461 1914.00 OP

PAGE 10/16 * RCVD AT 1/11/2005 4:30:25 PM [Eastern Standard Time] * SVR:USPTO-EFXXRF-1/3 * DNIS:8729306 * CSID:3036073600 * DURATION (mm-ss):05-06

0030020388

Refund Ref: 03/14/2005

\$865.00

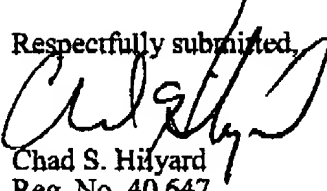
Credit Card Refund Total:

In trying to revive this patent application (and other Quark patent applications Mr. Webb allowed to go abandoned) I discussed Mr. Webb's representation of Quark with Mr. Webb's partner at the time, Kurt Lewis. Mr. Lewis explained to me that Mr. Webb had similar problems with other clients, which led their law firm to ask Mr. Webb to leave. I asked Mr. Lewis to prepare a declaration explaining the circumstances under which this patent application, as well as other Quark patent applications were allowed to go abandoned. I have attached Mr. Kurt Lewis' declaration to this paper for your reference.

Quark, Inc., the owner of this patent application, did not intend for the application to go abandoned. Mr. Lewis's attached declaration illustrates that Quark's previous patent counsel, Mr. Webb, was irresponsible with docketing, which caused the abandonment. Accordingly, Quark respectfully requests the Office of Petitions to revive this patent application as soon as possible, so Quark can continue with the prosecution of this case. In that regard, we have included with this petition to revive the required a response to the restriction requirement.

If the Office of Petitions believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-607-3500.

Respectfully submitted,


Chad S. Hilyard
Reg. No. 40,647

FAEGRE & BENSON LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901
Tel: 303-607-3500
CSH:csH

DNVR1:60286793 01

DECLARATION OF KURT S. LEWIS

I, Kurt S. Lewis, Esq., hereby state and declare as follows:

1. I am a member of the law firm of Lewis Meyers & Scheid LLC ("LM"), formerly known as Webb Lewis & Meyers LLC ("WL&M"). I was associated as a member of an LLC with Glenn L. Webb from approximately January 2000 to August 18, 2004. On August 18, 2004, Mr. Webb was asked to leave WL&M, and voluntarily did so.

2. Mr. Webb was the only attorney at WL&M licensed to practice before the United States Patent Office. Any patent related work, including patent prosecution, was performed by Mr. Webb. During September 2003, WL&M moved to its current location at 2300 Fifteenth Street, Suite 320, Denver, CO 80210 ("Current Office Location"). Prior to this move, Mr. Webb worked from his home office in Conifer, Colorado. All patent files Mr. Webb was responsible for were located at this home office. Sometime after the move Mr. Webb transferred these files to the Current Office Location.

3. After the September move, members of WL&M attempted to incorporate Mr. Webb's patent files into the firm's docketing system. Although patent correspondence that WL&M received after the September move were docketed, previous deadlines and correspondence received only by Mr. Webb, which were unknown to WL&M, were not incorporated into WL&M's docketing system. Mr. Webb was made aware of each patent deadline, which was incorporated into WL&M's docketing system as they became due.

4. On the evening of August 15, 2004, I received a telephone call from Mr. Webb regarding the files of this former client, Quark Inc. ("Quark"), who had directed him to transfer their files to another law firm. Mr. Webb informed me that two patent applications had been abandoned during the past year for failure to respond to USPTO communications. Mr. Webb expressed remorse for forgetting the deadlines and allowing these applications to become abandoned.

5. On August 16, 2004, a law clerk at WL&M assisted Mr. Webb in preparing the files for transfer and compiling an inventory list for the client. It was during this time that other members of WL&M first learned that there were in fact at least six Quark patent applications that had become abandoned for failure to respond to USPTO communications. Included in some of these files were documents that Mr. Webb prepared and filed in an attempt to revive the applications. These documents were signed by Mr. Webb and dated August 15, 2004. On September 21, 2004, I spoke with Quark's General Counsel and its new outside counsel regarding Mr. Webb's attempts to revive the Quark patent applications. During this conversation, I informed them that in addition to the patent applications, which had been abandoned, certain issued patents had lapsed due to failure to pay maintenance fees.


6. On August 18, 2004, the WL&M partners, including Mr. Webb met to discuss the reasons why these critical deadlines had not been met. Mr. Webb expressed to the other partners that he simply had forgotten them, and that during the office move in September 2003 he had "lost track" of the status of those files. Mr. Webb also expressed that these errors were made because of his own lack of responsibility, and in no way were a result of any action or negligence on the part of Quark. It was at the close of this

meeting that the partners discussed Mr. Webb's voluntary resignation from the firm, to which Mr. Webb agreed.

7. Webb Lewis & Meyers was not aware of Mr. Webb's failure to monitor and respond to office actions relating to various patents including, but not limited to, those of Quark. This is consistent with information we have gleaned since Mr. Webb's departure about other clients who were falsely informed that their patent applications were pending, when in fact they had been abandoned.

I declare under penalty of perjury that the foregoing is true and correct.

DATED 7th day of December, 2004


Kurt Lewis, Esq.